

218911

MORNINGSTAR

A Professional Consulting Company

Sent via overnight delivery

2009-376-C

September 1, 2009

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Drive, Suite 100
Columbia, SC 29201

RECEIVED
SEP 2 2009
SC PSC
↓

Re: Annual Reporting Information Required by S.C. Reg. 103-690.1.B

Dear Mr. Terreni:

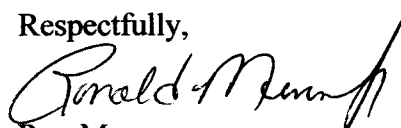
Pursuant to 47 CFR 54.314, the South Carolina Public Service Commission ("Commission") and the South Carolina Office of Regulatory Staff ("ORS") annually certifies to the Federal Communications Commission (FCC) that federal universal service funds received by South Carolina eligible telecommunication carriers ("ETC") are used only for the provision, maintenance, and upgrade of facilities and services for which the support is intended.

In accordance with the requirements of S.C. Reg. 103-690.1.B, Nexus Communications, Inc. ("Nexus", the "Company") hereby files the Company's certification and respectfully requests that the Commission and the ORS file a certification with the FCC and USAC no later than October 1, 2009, that all federal high-cost support provided to Nexus has been used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

An extra copy of this form has been included. Please stamp as received and return to me in the provided self-addressed stamped envelop.

Please contact me at (318) 780-3987 with any questions regarding this filing.

Respectfully,



Ron Munn

Regulatory Analyst for
Nexus Communications, Inc.

NEXUS COMMUNICATIONS, INC.

3629 Cleveland Ave., Suite C
P.O. Box 247168
Columbus, OH 43224
740-549-1092
740-548-1173 Fax

August 26, 2009

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Drive, Suite 100
Columbia, SC 29201

Re: 2008 Annual Reporting Information as Required by S.C. Reg. 103-690.1.B.

Dear Mr. Terreni:

Nexus Communications, Inc. ("Nexus" and the "Company") hereby provides the required certification and requested information as required by S.C. Reg. 103-690.1.B

CERTIFICATION

On behalf of the Company, I, Steven Fenker, an officer of the Company with substantial knowledge of the Company's operations, do hereby certify under penalty of perjury that the following is true and accurate to the best of my knowledge and belief:

1. I am President of the Company;
2. The company is certified as a Competitive Eligible Telecommunications Carrier ("ETC") in the geographic area served by non-rural Incumbent LEC, BellSouth Telecommunications, Inc. South Carolina dba AT&T South Carolina ("AT&T South Carolina");
3. As such, the Company is eligible to receive disbursements from the federal Universal Service Fund in connection with the offering of Lifeline and Link Up services for Study Area Code 249007; and
4. The Company will utilize all federal High Cost Support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with 47 U.S.C. § 254(e) of the Telecommunications Act of 1996.
5. The information provided in this report is to the best of my knowledge accurate and true.

Respectfully,


Steven Fenker
President, Nexus Communications, Inc.

BACKGROUND

Nexus Communications, Inc. ("Nexus", the "Company") filed its Application for designation as an Eligible Telecommunications Carrier ("ETC") in the geographic area served by BellSouth/AT&T South Carolina in Docket No. 2009-275-C on July 16, 2008, for the purpose of offering Lifeline and Link-Up support to qualifying consumers, and draw from the federal Universal Service Fund ("USF") in connection with those services. Nexus was so designated by the Public Service Commission of South Carolina on June 10, 2009, in Order No. 2009-316.

Pursuant to S.C. Reg. 103-690.1.B. "[a] common carrier designated under 47 U.S.C. § 214(e)(2) as an eligible telecommunications carrier after January 1, 2007 shall provide:

- (1) a progress report on its two-year service quality improvement plan, including maps detailing its progress toward meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level. Additionally, an updated forward-looking two-year plan shall be filed annually;
- (2) detailed information on any outage, as defined in 47 C.F.R. § 4.5, of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect (a) at least ten percent of the end users served in a designated service area; or (b) a 911 special facility, as defined in 47 C.F.R. § 4.5(e). Specifically, the eligible telecommunications carrier's annual report must include information detailing (a) the date and time of onset of the outage; (b) a brief description of the outage and its resolution; (c) the particular services affected; (d) the geographic areas affected by the outage; (e) steps taken to prevent a similar situation in the future; and (f) the number of customers affected;
- (3) the number of request for service from which potential customers within the eligible telecommunications carrier's service area that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers;
- (4) the number of complaints of trouble reports per 1000 handsets or access lines;
- (5) certification that it is complying with applicable service quality standards and consumer protection rules, as designated by the commission;
- (6) a detailed report and certification that the carrier is able to function in emergency situations;
- (7) for non-incumbent local exchange carriers certification that the carrier is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service area;
- (8) certification that the carrier acknowledges that the Federal Communications Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area;

- (9) the number of Lifeline customers and the number of customers that received Link Up assistance as of December 31st of each year;
- (10) copies of responses to the Lifeline Verification Survey or Certification filed with the Universal Service Administrative Company on August 31st of each year; and
- (11) for ETC's not eligible for High Cost support, but participating in the Lifeline and Link Up programs, subsections (1) and (2) shall be waived. All other requirements shall remain in force, except that the requirements of (6) may be met by reference to an underlying carrier's continuing certification as for leased facilities.

In compliance with these requirements, Nexus hereby provides the following:

REQUESTED INFORMATION AND CERTIFICATIONS

1. PROGRESS REPORT ON ITS TWO-YEAR SERVICE QUALITY IMPROVEMENT PLAN

In its application, Nexus sought designation as an ETC "in order to offer Lifeline and Link-Up support to its qualifying customers, and draw from the federal Universal Service Fund ("USF") in connection with those services" and subsequently received designation for the same. As such Nexus is not eligible to for High-Cost funding. Consistent with S.C. Reg. 103-690.1.B(b)(11), ETCs who are not eligible for High Cost funding, but participate in the Lifeline and Link Up programs are not required to comply with this requirement.

2. DETAILED INFORMATION ON ANY OUTAGE

Nexus is not eligible for High Cost funding, but participates in the Lifeline and Link Up programs. Consistent with S.C. Reg. 103-690.1.B(b)(11), ETCs who are not eligible for High Cost funding, but participate in the Lifeline and Link Up programs are not required to comply with this requirement.

3. THE NUMBER OF REQUEST FOR SERVICE FROM POTENTIAL CUSTOMERS WITHIN ITS SERVICE AREA THAT WENT UNFULFILLED DURING THE PAST YEAR

47 C.F.R. §§ 54.202(a)(1) and 54.202(a)(1)(A) require that an ETC provide service throughout its proposed designated service area to all customers making a reasonable request for service and to do so within a reasonable period of time provided that the customer is within the applicant's licensed service area but outside of its existing network coverage area. Pursuant to these requirements, 47 C.F.R. § 54.209(a)(3) and S.C. Reg. 103-609.1.B(b)(3) require an ETC to report annually the number of request for service from potential customers within the ETCs service area that were unfulfilled during the past year.

Nexus was designated as an ETC on June 10, 2009 in Order No. 2009-316 and as such did not provide service in the state of South Carolina during the 2008 calendar year. Therefore Nexus reports the number of request for service that went unfulfilled in 2008 as "zero".

4. THE NUMBER OF COMPLAINTS OR TROUBLE REPORTS PER 1000 HANDSETS OR ACCESS LINES

47 C.F.R. § 54.202(a)(4) and S.C. 103-690.1.B(b)(4) requires a common carrier designated as an ETC under section 214(e)(6) of the Telecommunications Act of 1996 to provide annually the number of complaints per 1,000 handsets or lines.

Nexus was not certified as ETC nor did it provide service in 2008. As such the number of complaints or trouble reports per 1000 handsets or access lines for 2008 is reported as “zero”.

5. CERTIFICATION THAT IT IS COMPLYING WITH APPLICABLE SERVICE QUALITY STANDARDS AND CONSUMER PROTECTION RULES.

As required by 47 C.F.R. § 54.209(a)(5) and S.C. Reg. 103-690.1B(b)(5), Nexus certifies that it is complying with all consumer privacy protection standards as provided in 47 C.F.R. § 64 Subpart U and as designated by the Commission and will protect Customer Proprietary network Information (“CPNI”) as required by state and federal law and will certify compliance of the same on an annual basis.

6. A DETAILED REPORT AND CERTIFICATION THAT NEXUS IS ABLE TO FUNCTION IN EMERGENCY SITUATIONS.

47 C.F.R. § 54.202(a)(2) require an ETC to provide a “[d]emonstration of the carrier’s ability to remain functional in emergency situations” while 47 C.F.R. § 54.209(a)(6) and S.C. Reg. 103-690.1.B(b)(6) require an ETC to provide a detailed report and to certify that the carrier is able to function in emergency situations Consistent with the requirements of 47 C.F.R. § 54.201(d)(1), Nexus is a combination or “mixed-mode: carrier and “[o]ffers the services that are supported by federal universal support mechanisms...using...a combination of its own facilities and resale of another carrier’s services...” Currently, Nexus’ “own facilities” consist of unbundled network elements (“UNEs”) leased from AT&T South Carolina. Nexus certifies that its ability to remain functional, for its leased facilities, is the same as that of the underlying carrier, from whom the Company obtains these same facilities and references the underlying carrier’s continuing certification to remain functional in emergency situations as allowed under S.C. Reg. 103-690.1.B(b)(11).

7. CERTIFICATION THAT NEXUS OFFERS A LOCAL USAGE PLAN COMPARABLE TO THAT OFFERED BY THE INCUMBENT LEC IN THE RELEVANT SERVICE AREA

47 C.F.R. § 54.202(a)(4) requires an ETC to “[d]emonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation”¹ and S.C. Reg. 103-690.1.B(b)(7) requires all non-incumbent local exchange carrier to certify annually that the carrier continues to offer a local usage plan comparable to that offered by the incumbent LEC in the relevant service area. However, neither the FCC nor this Commission has adopted any minimum local usage requirements and the FCC has explained that the local usage plan(s) of an ETC applicant should be reviewed on a case-by-case basis² in order to ensure that each ETC is providing a local usage component as a part of

¹ 47 CFR § 54.202(a)(ii)(4).

² Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371, 6385, ¶ 33 (2005).

its universal service offering that meets the requirements of the FCC's Rules.³ It is also important to point out that an ETC is required to offer a local usage plan that is "comparable" not identical.

Nexus certifies that it will comply with all applicable minimum local usage requirements and that it continues to offer a local usage plan that is comparable to that currently offered by the Incumbent LEC in the relevant service area, which in this case is AT&T South Carolina.

8. CERTIFICATION THAT NEXUS ACKNOWLEDGES THAT THE FEDERAL COMMUNICATIONS COMMISSION MAY REQUIRE IT TO PROVIDE EQUAL ACCESS TO LONG DISTANCE CARRIERS

47 C.F.R. § 54.101(a) require an ETC to offer the services or functionalities supported by the federal universal service support mechanisms including local usage. 47 C.F.R. §§ 54.209(a)(7), 54.209(a)(8) and S.C. Reg. 103-690.1.B(b)(8) require a carrier designated as an ETC to certify acknowledgement that the carrier may be required to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

Pursuant to these requirements, Nexus certifies its acknowledgement that it may be required to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

9. THE NUMBER OF LIFELINE CUSTOMERS AND THE NUMBER OF CUSTOMERS THAT RECEIVED LINK UP ASSISTANCE AS OF DECEMBER 31ST, 2008

S.C. Reg. 103-690.1.B(b)(9) require an Etc to report the number of Lifeline customers and the number of customers that received Link Up assistance as of December 31st of the prior year.

Nexus was designated as an ETC on June 10, 2009 and did not provide Lifeline or Link Up during 2008. As such, the number of Lifeline customers and the number of customers that received Link Up assistance from Nexus as of December 31st, 2008 is reported as "zero".

10. COPIES OF THE COMPANY'S LIFELINE VERIFICATION SURVEY OR CERTIFICATION FOR CALENDAR YEAR 2008.

In its Report and Order and Further Notice of Proposed Rulemaking, adopted April 2, 2004, the Federal Communications Commission defined verification as a process by which an eligible consumer establishes, on a periodic basis, continued qualification for Lifeline and Link Up that occurs after the subscriber has been initially certified and includes random beneficiary audits, periodic submission of documents, or annual self-certification. The FCC adopted the Joint Board's recommendation to require ETCs to verify annually the continued eligibility of a statistically valid sample of their Lifeline subscribers. ETCs are free to verify directly with a state or alternatively, to the extent that ETCs cannot obtain the necessary information from the state, to survey the subscriber directly and provide the results of the sample to USAC. Pursuant to these requirements, Nexus verifies annually the continued

³ 47 CFR § 54.201(a)(ii)(4).

eligibility of a statistically valid sample of its Lifeline customers and reports the results to the Lifeline administrator.

Nexus was designated as an ETC on June 10, 2009 and did not provide Lifeline or Link Up during 2008. As a result, there were no Lifeline customers in the state of South Carolina for which the Company had need to verify the continued eligibility of.

**THE COMPANY RESPECTFULLY SUBMITS THAT IT MEETS THE QUALIFICATIONS FOR
CONTINUED CERTIFICATION FOR STUDY AREA CODE 249007**

The Company respectfully submits that, given the number and nature of the requirements for support already in place, the Commission may lawfully and appropriately rely upon this self-certification by the Company. The requirements, procedures, and processes to which the Company adheres, as set forth above, provide the necessary and sufficient basis for the Commission to provide certification to USAC and the FCC, and to thereby ensure that the Company and its customers will not be deprived of the USF funding to which the Company and its customers are lawfully entitled to possess. Essentially, under the existing rules and process discussed above, the federal support funds available to the Company and other ETCs are, in fact, an integral part of the recovery of expenditures incurred in the provision, maintenance, and upgrading of its provision of universal service. The processes and certifications described above constitute the Company's annual reporting with respect to the receipt and utilization of federal universal support, upon which the Company may depend on to provide its customers with quality telephone service at competitive prices. Furthermore, the Company attests, per the above certification, that it will use federal universal support only for its intended purpose.

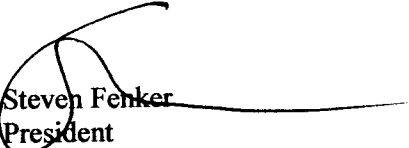
In many respects, the certification process is similar to the certification process, which the Commission uses in its initial designation of eligible telecommunications carriers, thereby fulfilling its right, as established by the Telecommunications Act of 1996, to designate a carrier as an ETC.

Accordingly the grant of this request for certification is consistent with past practice and procedure. The very same procedure and process undertaken by the Commission that is valid for designation of eligibility to receive funds is also rationally valid as the basis for the necessary certification that the Company will use those funds, once received, for the purposes for which they are intended.

The Company, as discussed above and pursuant to the above certification, represents to the Commission that it adheres to and complies with all required processes, and that any expenditures of USF funds will be consistent with the applicable rules and foster the provision of facilities and services for which the funding is intended.

Please contact the undersigned with any questions if further information is required.

Respectfully Submitted,


Steven Fenker
President